IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	**Confirmation No. 4870**
Takashi YUMIBA et al.	:	Attorney Docket No. 2000_1253A
Serial No. 09/670,119	:	Group Art Unit 2131
Filed September 26, 2000	:	Examiner Shin Hon Chen
INFORMATION RECORDING MEDIUM FOR RECORDING A SCRAMBLED PART OF CONTENT INFORMATION, AND METHOD AND APPARATUS FOR REPRODUCING INFORMATION RECORDED THEREIN	:	**Mail Stop Appeal Brief - Patents**

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Respectfully submitted,

Takashi YUMIBA et al.

THE COMMISIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

By _____
David M. Ovedovitz
Registration No. 45,336
Attorney for Appellants

DMO/krg
WENDEROTH, LIND & PONACK, L.L.P.
2033 K St., N.W., Suite 800
Washington, D.C. 20006-1021
Telephone (202) 721-8200
September 17, 2007

[Check No. 82292]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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APPELLANTS' BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THE COMMISIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

Sir:

The following is an Appeal Brief submitted in accordance with the provisions of 37 CFR §41.37.

Real Party in Interest

The above-referenced application is assigned to Matsushita Electric Industrial Co., Ltd. of Osaka, Japan (Reel/Frame: 011348/0697). Therefore, the real party of interest is Matsushita Electric Industrial Co., Ltd.

Related Appeals and Interferences

There are no known related appeals or interferences.

Status of Claims

Claims 1-33, 35 and 38-40 have been cancelled, and claims 34, 36 and 37 are presently pending. Claims 34, 36 and 37 were finally rejected in the Office Action of April 16, 2007, and the final rejection of these claims is appealed. A complete copy of the claims on appeal is provided in Appendix I.

Status of Amendments

No amendments subsequent to the final rejection of April 16, 2007 have been made.

Summary of the Claimed Subject Matter

A description of the subject matter recited in the rejected claims will now be provided below with reference to the written description and the drawings of this application. In this regard, the cited portions of the written description refer to the clean version of the substitute specification filed on August 26, 2004.

Claim 34 recites an information recording medium for recording scrambled data from a recording device including scrambled key information (*see, for example,* page 12, line 29 – page 13, line 17 and Figures 1 and 2, element 201), the information recording medium comprising:

cipher key information that is scrambled and prestored on the information recording medium (*see, for example,* page 13, lines 9-17 and Figure 1, element 150);

non-scrambled data including copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium (*see, for example,* page 14, line 30 – page 15, line 11 and Figure 1, element 136); and

the scrambled data obtained by scrambling the contents data using the scrambled key information (*see, for example,* page 14, line 30 – page 15, line 11 and Figure 1, element 135),

wherein the scrambled key information is generated in the recording device from at least the cipher key information that is read from the information recording medium and unscrambled by the recording device, and the copy control information (*see, for example,* page 14, line 18 – page 15, line 11).

Claim 36 recites a method for recording information (*see, for example,* page 14, lines 26-29

and page 16, lines 10-24), the method comprising:

reading cipher key information that is scrambled and prestored on an information recording medium from the information recording medium to a recording device (*see, for example,* page 13, lines 9-17; page 14, line 30 – page 15, line 11; page 15, line 21 – page 16, line 24; and Figures 1, 3 and 4, element 150);

reading copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium (*see, for example,* page 13, lines 9-17; page 14, line 30 – page 15, line 11; page 15, line 21 – page 16, line 24; and Figures 1, 3 and 4, element 136);

generating scrambled key information using at least the cipher key information that is unscrambled by the recording device and the copy control information (*see, for example,* page 16, lines 10-26 and Figure 4, element 310);

scrambling the content data using the scrambled key information to obtain scrambled content data (*see, for example,* page 16, lines 10-26 and Figure 4, element 306); and

recording the scrambled content data and the unscrambled copy control information onto the information recording medium (*see, for example,* page 14, line 30 – page 15, line 11 and Figure 1, elements 135 and 136).

Claim 37 recites method for reproducing information (*see, for example,* page 16, lines 10-24), the method comprising:

reading from an information recording medium copy control information that is not scrambled, scrambled content data, and cipher key information that is scrambled and prestored on the information recording medium, a recording device having read and descrambled the cipher key information from the information recording medium to create the scrambled content data (*see, for example,* page 13, lines 9-17; page 14, line 30 – page 15, line 11; page 15, line 21 – page 16, line 24; and Figures 1, 3 and 4, elements 135, 136, 150, 201 and 208);

generating descrambled key information using at least the cipher key information that is unscrambled and the copy control information (*see, for example,* page 16, lines 10-26 and Figure 4, element 310); and

descrambling the scrambled content data using the descrambled key information to obtain content data (*see, for example,* page 16, lines 10-26 and Figure 4, element 306),

wherein the copy control information is stored onto the information recording medium from the content data which is acquired from an entity other than the information recording medium (*see, for example,* page 14, line 30 – page 15, line 11 and Figure 1, element 136).

Grounds of Rejection to be Reviewed on Appeal

I. Independent claims 34, 36 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,611,534 (*hereinafter* the Sogabe reference) in view of U.S. Patent No. 6,832,319 (*hereinafter* the Bell reference).

Arguments

I. Independent Claims 34, 36 and 37 are Patentable over the Combination of the Sogabe Reference and the Bell Reference

Initially, it is noted that to establish a *prima facie* case of obviousness, (1) the combination of prior art references must teach or suggest all of the claim limitations; and (2) there must be some reason to combine the references in the manner suggested to obtain the claimed invention. (*See* MPEP Chapter 2143). As will be explained in detail below, neither of these requirements have been met.

Claim 34 is patentable over the combination of the Sogabe reference and the Bell reference, since claim 34 recites an information recording medium for recording scrambled data from a recording device including scrambled key information, the information recording medium including, in part, non-scrambled data including copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium; and the scrambled data obtained by scrambling the contents data using the scrambled key information, wherein the scrambled key information is generated in the recording device from at least cipher key information that is read from the information recording medium and unscrambled by the recording device, and the copy control information. The combination of the Sogabe reference and the Bell reference fails to disclose or suggest the generation of the scrambled key information from at least the cipher key information and the copy control information, as recited in claim 34.

The Sogabe reference discloses a system for storing contents on a recording medium as enciphered data. In the system, a set-top-box (STB) 12 and a DVD-RAM device (DRD) 116

authenticate each other. The DRD 116 then deciphers an enciphered control key (eKcontrol) sent from the STB 12 to generate a control key (Kcontrol). The STB 12 next sends an enciphered contents key (eKcontent) to the DRD 116 together with enciphered digital contents. The enciphered digital contents contain copy control data (CGMS). The DRD 116 generates a contents key (Kcontent) from the enciphered contents key (eKcontent) using the control key (Kcontrol) and the copy control data (CGMS) which are both received from the STB 12. The contents key (Kcontent) is capable of deciphering the enciphered digital contents. The DRD 116 then records the enciphered digital contents directly on the recording medium and records the corresponding contents key (Kcontent) and the copy control data (CGMS) in a gap area of the recording medium. (*See* column 8, lines 10 and 11 and column 9, lines 27-54).

Based on the above discussion of the Sogabe reference, the DRD 116 receives both the control key (Kcontrol) and the contents key (Kcontent) from the STB 12 in enciphered form (i.e., as the enciphered control key (eKcontrol) and the enciphered contents key (eKcontent). The DRD 116 is able to decipher the control key (Kcontrol) from the enciphered control key (eKcontrol) and then use the control key (Kcontrol) and the copy control data (CGMS) to decipher the contents key (Kcontent) from the enciphered contents key (eKcontent). The contents key (Kcontent), which is capable of deciphering the enciphered digital contents, is then recorded on the recording medium with the enciphered digital contents.

In the "Response to Arguments" section of the Office Action of April 16, 2007, it is indicated that the contents key (Kcontent) corresponds to the claimed scrambled key information, the enciphered contents key (eKcontent) corresponds to the claimed cipher key information, and the copy control data (CGMS) corresponds to the claimed copy control information (*See* page 5, line 20 – page 6, line 3). However, claim 34 recites that the scrambled key information is generated in the recording device from at least the cipher key information that is read from the information recording medium and the copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium. In other words, the cipher key information and the copy control information are acquired from different sources. On the other hand, as mentioned above, the Sogabe reference explicitly discloses that the enciphered contents key (eKcontent) and the copy control data (CGMS), which are used to generate the contents key (Kcontent), are both received from the STB 12 (i.e., the same source). Therefore, in order for the

Sogabe reference to disclose or suggest this feature, the DRD 116 would have to receive the enciphered contents key (eKcontent) and the copy control data (CGMS) from different sources. As a result, it is necessary for the Bell reference to disclose or suggest this feature in order for the combination of the Sogabe reference and the Bell reference to render claim 34 obvious.

Regarding the Bell reference, it discloses a disk 32 that has a media identification 34 and a media key block 36 written thereon during the manufacturing of the disk 32. When data is to be copied to the disk 32, a recorder 20 reads the media key block 36 and the media identification 34 from the disk 32. Then, the recorder 20 determines an appropriate media key from the media key block 36 and combines the media key with the media identification 34 to generate a content key which is used to encrypt the data for storage on the disk 32. (*See* column 6, line 15 – column 7, line 5 and Figures 3-5).

In the "Response to Arguments" section of the Office Action of April 16, 2007, it is indicated that the Bell reference is being relied upon as disclosing that cipher key information can be stored on a recording medium. (*See* page 6, lines 10-12). However, it is apparent that the Bell reference also fails to disclose or suggest the claimed feature of the cipher key information and the copy control information being acquired from different sources as would be necessary to address the deficiency of the Sogabe reference. This is clear from the fact that **both** the media key block 36 and the media identification 34, which are used to generate the content key, are stored on the disk 32. In other words, the media key block 36 and the media identification 34 are acquired from the same source as is the case in the Sogabe reference.

Further, in the Bell reference, the media identification 34 is information that is unique to the disk 32 and the media key block 36 is the same for a large batch of disks 32. (*See* column 6, lines 37-41). It is clear that the media identification 34 and the media key block 36 are both closely related to or linked with the disk 32. Therefore, any reliance on the Bell reference as suggesting that the source of the media identification 34 may be different from the source of the media key block 36 as would be necessary to disclose or suggest the above-discussed feature lacking from the Sogabe reference is without any basis whatsoever. Therefore, it is apparent that the Bell reference fails to address the above-mentioned deficiency of the Sogabe reference.

In consideration of the above discussion, the Sogabe reference and the Bell reference do not, either alone or in combination, disclose or suggest the generation of the scrambled key information

from at least the cipher key information and the copy control information as recited in claim 34. Therefore, one of ordinary skill in the art would not have been motivated to modify or combine the references so as to obtain the invention as recited in claim 34. Accordingly, it is respectfully submitted that claim 34 is clearly patentable over the prior art of record.

As for claims 36 and 37, they are patentable over the references for reasons similar to those set forth above in support of claim 34. That is, claims 36 and 37 recite, in part, generating descrambled key information using at least cipher key information from an information recording medium and copy control information from content data which is acquired from an entity other than the information recording medium, which feature is not disclosed or suggested by the references.

Conclusion

In view of the above, it is respectfully submitted that independent claims 34, 36 and 37 are patentable over the combination of the Sogabe reference and the Bell reference. Therefore, rejected claims 34, 36 and 37 are allowable. Accordingly, the Board is requested to reverse the rejections set forth in the final Office Action of April 16, 2007.

This brief is submitted with the requisite fee of $500.00.

Respectfully submitted,

Takashi YUMIBA et al.

By _____
David M. Ovedovitz
Registration No. 45,336
Attorney for Appellants

DMO/krg
Washington, D.C.
Telephone (202) 721-8200
Facsimile (202) 721-8250
September 17, 2007

APPENDIX I - Claims on Appeal

34. An information recording medium for recording scrambled data from a recording device including scrambled key information, the information recording medium comprising:

cipher key information that is scrambled and prestored on the information recording medium;

non-scrambled data including copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium; and

the scrambled data obtained by scrambling the contents data using the scrambled key information,

wherein the scrambled key information is generated in the recording device from at least the cipher key information that is read from the information recording medium and unscrambled by the recording device, and the copy control information.

36. A method for recording information, the method comprising:

reading cipher key information that is scrambled and prestored on an information recording medium from the information recording medium to a recording device;

reading copy control information that is not scrambled, from content data which is acquired from an entity other than the information recording medium;

generating scrambled key information using at least the cipher key information that is unscrambled by the recording device and the copy control information;

scrambling the content data using the scrambled key information to obtain scrambled content data; and

recording the scrambled content data and the unscrambled copy control information onto the information recording medium.

37. A method for reproducing information, the method comprising:

reading from an information recording medium copy control information that is not scrambled, scrambled content data, and cipher key information that is scrambled and prestored on the information recording medium, a recording device having read and descrambled the cipher key information from the information recording medium to create the scrambled content data;

generating descrambled key information using at least the cipher key information that is

unscrambled and the copy control information; and

descrambling the scrambled content data using the descrambled key information to obtain content data,

wherein the copy control information is stored onto the information recording medium from the content data which is acquired from an entity other than the information recording medium.

APPENDIX II - Evidence

There is no evidence relied on by Appellant.

APPENDIX III - Related Proceedings

As indicated above, there are no related appeals or interferences.